

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Y. NOGATA, et al.
Serial No.: 10/590,436
Filed: AUGUST 23, 2006
For: FOOD INGREDIENT INCLUDING ENRICHED FREE AMINO ACIDS AND THEIR PRODUCTION METHOD
Group AU: 1794
Examiner: Elizabeth A. Gwartney
Confirm. No. 8693

DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

SIR:

I, Yoichi NOGATA, a citizen of Japan, with an address of c/o National Agricultural Research Center for Western Region, 12-1, Nishifukatsu-cho 6-chome, Fukuyami-shi, Hiroshima 7218514 Japan, DECLARE THAT:

1. I graduated from Kyushu University, Faculty of Agriculture, and received a master's degree in 1988.
2. I studied at the University of Washington, Department of Chemistry, from October 1998 to February 2000.
3. I entered the National Food Research Institute Ministry of Agriculture, Forester and Fisheries, in April, 1989; I transferred to Chugoku National Experiment Station Ministry of Agriculture, Forester and Fisheries, in April, 1990; and I transferred to the National Agricultural Research Center for the Western Region National Agriculture and Food Research Organization, in April, 2001.
4. I have written articles in English, three recent articles being the following:

- (a) Angiotensin I Converting Enzyme Inhibitory Peptides Produced by Autolysis Reactions from Wheat Bran, Y. Nogata, T. Nagamine, M. Yanaka, and H. Ohta, /J. Agric. Food Chem/., 57, 6618-6622 (2009).
- (b) Production of amino acids and g-amino acid by autolysis reactions from wheat bran. Y. Nogata, and T. Nagamine, /J. Agric. Food Chem/., 57, 1331-1336 (2009).
- (c) Isolation of eriocitrin (eriodictyol 7-O-rutinoside) as an arachidonate lipoxygenase inhibitor from Lumie fruit (Citrus lumia) and its distribution in Citrus species. Y. Nogata, H. Ohta, T. Ishii, and K. Sekiya, /J. Sci. Food Agric/., 87, 82-89 (2007).

5. I am knowledgeable in both the Japanese and English languages.

6. I am one of the named inventors in U.S. Application No. 10/590,436, filed August 23, 2006 (hereinafter "the above-identified application").

7. I have reviewed the rejection of claims 1-4, 7 and 9-13 under 35 USC 112, first paragraph, in Item 4 on page 2 of the Office Action mailed May 25, 2010, in the above-identified application, and in particular note the comment by the Examiner therein that while "there is support in the specification and claims as originally filed for malting barley, there is no support for the more narrow term 'two-row barley'", and the note by the Examiner that "malting barley can be either two-row or six-row barley".

8. As will be seen in the following, there is a translation error in the disclosure of the above-identified application as originally filed, as compared with the disclosure of International (PCT) Application No. PCT/JP2004/002353, filed

February 27, 2004 (hereinafter "original PCT application"), in use of the term "malting barley" rather than "two-malt barley".

9. Specifically, the Japanese term, "二条大麦" (pronounced as "ni-jou-oomugi"), was used in the original PCT application; this Japanese term was translated into "malting barley", but the translation was found to be not suitable.

10. The term "二条大麦" consists of the three Japanese words "二" (ni), "条" (jou), and "大麦" (oomugi); here the Japanese characters "二" (ni) means "two" in English, "条" (jou) means "row" in English, and "大麦" (oomugi) means "barley" in English, respectively.

11. Accordingly, "two-row barley" is more suitable as the English translation of the Japanese term "二条大麦" used in the original PCT application, rather than "malting barley".

12. As seen in the foregoing paragraphs 9-11, use of the term "malting barley" in the specification and claims of the above-identified application is an accurate translation of the corresponding term, pronounced "ni-jou-oomugi", used in the original PCT application, and "malting barley" is an unsuitable translation.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

September 23, 2010
Date

Yoichi Nogata
Yoichi NOGATA